

AMENDED IN SENATE MAY 3, 2005

SENATE BILL

No. 942

Introduced by Senator Chesbro

(Principal coauthor: Assembly Member Pavley)

**(Coauthors: Senators Escutia, Kehoe, Kuehl, Ortiz, Soto, and
Torlakson)**

(Coauthors: Assembly Members Chu, Hancock, Jones, Koretz,
Levine, Saldana, and Vargas)

February 22, 2005

An act to add Division 12.8 (commencing with Section 19000) to the Public Resources Code, relating to cigarettes.

LEGISLATIVE COUNSEL'S DIGEST

SB 942, as amended, Chesbro. Cigarettes: pollution: litter.

Existing law, the Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates, including additional taxes imposed under the California Families and Children Act of 1998 (Proposition 10), and the Tobacco Tax and Health Protection Act of 1988.

This bill would enact the Cigarette Pollution and Litter Prevention Act of 2005 and would require a manufacturer on July 1, 2006, to pay a *specified* fee to the ~~Department of Conservation~~ *State Board of Equalization* for each package of cigarettes sold in the State of California during the previous 6 months. The bill would require each manufacturer to thereafter pay the fee based upon the number of packages of cigarettes sold in the state during the previous 6 months. ~~The bill would require the department to notify each manufacturer of the amount due.~~

The bill would require the fee to be in an amount that is not greater than specified costs mitigated by the bill.

The bill would require the ~~department~~ *board* to deposit the fees collected into the Cigarette Pollution and Litter Prevention Fund, which the bill would create in the State Treasury. The bill would authorize the revenues in the fund to be expended by the ~~department~~ *Department of Conservation* and the State Department of Health Services, upon appropriation by the Legislature, for ~~all~~ specified purposes and programs, including ~~to help offset state government, local government, and other public agency costs associated with the prevent and cleanup of cigarette litter and to mitigate cigarette related pollution, to develop and implement public education and outreach programs, to assist individuals to access and utilize smoking cessation services, to develop and implement community interventions, to reimburse the State Board of Equalization for its costs of administration and collection of the fee, and to provide for the costs of administering the act, in the percentages specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Division 12.8 (commencing with Section
2 19000) is added to the Public Resources Code, to read:

3
4 DIVISION 12.8. CIGARETTE LITTER REDUCTION AND
5 PREVENTION ACT OF 2005

6
7 CHAPTER 1. GENERAL PROVISIONS

8
9 19000. (a) This division shall be known, and may be cited, as
10 the Cigarette Pollution and Litter Prevention Act of 2005.

11 (b) The Legislature finds and declares all of the following:

12 (1) There are approximately four million smokers in California
13 who annually consume an estimated 1.2 billion packs of
14 cigarettes, or approximately 22 billion cigarettes.

15 (2) Pollution and litter from these cigarettes and their remnants
16 pose a significant and growing cost to taxpayers, public health,
17 and the environment.

18 (3) The vast majority of cigarette remnants or “butts” are
19 littered or landfilled. Cigarette butts are regularly identified as
20 the single most prevalent component of the state's litter stream.

1 Cigarette butts have always been the most common item
2 collected during the state's annual coastal cleanup. In 2003, the
3 more than 300,000 cigarette butts collected by volunteers during
4 the one day cleanup accounted for nearly 40 percent of total litter
5 collected.

6 (4) The reduction and cleanup of cigarette pollution and litter
7 is resulting in significant new costs for public agencies and
8 taxpayers. Public agencies in California are already spending in
9 excess of \$100 million annually on litter cleanup. Cigarette litter
10 is a significant contributor to storm drain trash in California. The
11 mandate of the United States Environmental Protection Agency
12 to reduce the Total Maximum Daily Load (TMDL) of litter to
13 “zero” in specified watersheds is expected to cost public agencies
14 ~~and ultimately taxpayers, more than _____ billion dollars (\$_____)~~
15 *and ultimately taxpayers, in southern California alone, more*
16 *than one billion seven hundred million dollars (\$1,700,000,000)*
17 over the next decade.

18 (5) Discarded cigarettes pose a significant threat to public
19 health and safety. Fires caused by discarded cigarettes claim the
20 lives of about 1,000 people every year, injuring more than 3,000,
21 and resulting in hundreds of millions of dollars in property
22 damage and fire suppression costs.

23 (6) Cigarette litter poses a threat to wildlife. Cigarette filters
24 have been found in the stomachs of fish, birds, whales, and other
25 marine creatures who mistake them for food. Composed of
26 cellulose acetate, a form of plastic, cigarette butts can persist in
27 the environment as long as other forms of plastic. Chemicals can
28 leach from cigarette butts within one hour of contact with water.
29 The chemicals that leach from cigarette butts are toxic to marine
30 and terrestrial life at concentrations as low as one cigarette butt
31 per 10 gallons and this toxicity persists for at least seven days.

32 (7) Greater public education is needed to correct the
33 misimpression that discarding cigarette butts at curbside is not
34 litter or a significant cause of pollution.

35 (8) The state and local governments spend hundreds of
36 millions of dollars each year to treat Californians who suffer
37 from illnesses and disease caused by the use of tobacco products,
38 such as cigarettes and smokeless tobacco.

39 (9) The economic burden of smoking in California totals
40 fifteen billion eight hundred million dollars (\$15,800,000,000)

1 per year, which equals four hundred seventy-five dollars (\$475)
2 for every Californian, and more than three thousand three
3 hundred dollars (\$3,300) per smoker.

4 (10) Manufacturers of tobacco products should be held
5 financially liable for all of the adverse public health and
6 environmental effects of their products, including tobacco
7 addiction and cigarette related pollution.

8 (11) Annually, more than 60 percent of smokers attempt to
9 quit smoking, but tobacco cessation services are inadequate for
10 providing an opportunity for smokers to quit.

11 (12) *The fee imposed pursuant to this division will offset the*
12 *costs of existing and needed programs to prevent and mitigate*
13 *the environmental, public health, and other publicly financed*
14 *impacts from discarded cigarettes and their remnants.*

15 (c) The Legislature finds and declares that the imposition of
16 the fee pursuant to Section 19003 would not result in the
17 imposition of a tax within the meaning of Article XIII A of the
18 California Constitution, because the amount and nature of the fee
19 has a fair and reasonable relationship to the environmental,
20 public health, and societal burdens imposed by the consumption,
21 disposal, and littering of cigarette material, and there is sufficient
22 nexus between the fees imposed and the use of those fees to
23 support the collection and reduction of cigarette litter.

24 CHAPTER 2. DEFINITIONS

25 19002. Unless otherwise expressly stated, whenever used in
26 this chapter, the following terms have the following meanings:

27 (a) ~~“Department” means the Department of Conservation.~~

28 (b) ~~“Fund” means the Cigarette Pollution and Litter Prevention~~
29 ~~Fund established pursuant to Section 19003.~~

30 (c) ~~“Cigarette” means any product that contains nicotine, is~~
31 ~~intended to be burned or heated under ordinary conditions of use,~~
32 ~~and consists of or contains any roll for smoking, made wholly or~~
33 ~~in part of tobacco, irrespective of size or shape and irrespective~~
34 ~~of whether the tobacco is flavored, adulterated or mixed with any~~
35 ~~other ingredient, where the roll has a wrapper that is wholly or in~~
36 ~~the greater part made of tobacco and the roll weighs over three~~
37 ~~pounds per thousand.~~

38 (d) ~~—~~

(a) “Cigarette” has the same meaning as in Section 30003 of the Revenue and Taxation Code.

(b) “Cigarette package” means an individual packet, box, or other container in which retail sales of cigarettes are normally made or intended to be made. “Package” does not include a container that is a carton, case, bale, or, or other box and that contains smaller packaging units of cigarettes.

~~(e)~~

(c) “Fund” means the Cigarette Pollution and Litter Prevention Fund established pursuant to Section 19004.

(d) “Manufacturer” means a person who manufactures a cigarette.

CHAPTER 3. ESTABLISHMENT OF THE CIGARETTE POLLUTION AND LITTER PREVENTION FEE

19003. (a) A manufacturer shall annually pay a cigarette pollution and litter prevention fee ~~to the department~~ of not more than five mills per cigarette in accordance with this section. The fee paid by the manufacturer shall be in an amount that is not greater than the costs of the environmental, public health, and societal burdens that are mitigated pursuant to this division.

(b) On July 1, 2006, a manufacturer shall pay a cigarette pollution and litter prevention fee for each package of cigarettes sold by that manufacturer in the state during the previous six months calendar year, as reported to the ~~department~~ State Board of Equalization. Each six months thereafter, a manufacturer shall pay a fee to the ~~department~~ State Board of Equalization, based upon the number of packages of cigarettes sold in the state of California during the previous 6 months, as reported to the department. ~~The department shall notify each manufacturer of the amount due under this section, as reported to the board.~~

(c) ~~The department~~ State Board of Equalization may collect the fees imposed pursuant to this section pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code). ~~The department may contract with the State Board of Equalization or another party for collection of fees due under this section.~~

(d) It is the intent of the Legislature to impose regulatory fees pursuant to this part within the limitation approved by the

1 *California Supreme Court in Sinclair Paint Co. v. State Bd. of*
2 *Equalization (1997) 15 Cal.4th 866.*
3 *19003.5. A distributor of cigarettes shall not affix a cigarette*
4 *stamp onto a cigarette package unless the manufacturer provides*
5 *to the distributor proof of payment of the fee required by Section*
6 *19003.*

7
8 CHAPTER 4. FINANCIAL PROVISIONS
9

10 19004. (a) ~~The Department of Conservation~~ *State Board of*
11 *Equalization* shall deposit all fees collected under this chapter
12 into the Cigarette Pollution and ~~Litter~~ *Litter* Prevention Fund,
13 which is hereby created in the State Treasury.

14 (b) The revenues in the fund may be expended by the
15 ~~department~~ *Department of Conservation* and the State
16 Department of Health Services, upon appropriation by the
17 Legislature, for all of the following purposes and programs *in the*
18 *following amounts:*

19 ~~(1) To help offset state government, local government, and~~
20 ~~other public agency costs associated with the cleanup of cigarette~~
21 ~~litter and to mitigate cigarette related pollution.~~

22 *(1) Fifty percent to be allocated to state and local*
23 *governments for prevention and cleanup of cigarette related*
24 *pollution and litter.*

25 ~~(2) To~~ *Twenty-eight percent to develop and implement public*
26 *education and outreach programs by public agencies and*
27 *nonprofit organizations aimed at educating the public on the*
28 *public health and environmental problems resulting from the*
29 *improper discard of cigarette remnants.*

30 ~~(3) To develop and implement programs by public agencies~~
31 ~~and nonprofit organizations aimed at reducing the source of~~
32 ~~cigarette related litter and pollution and the resulting public cost.~~

33 ~~(4) To~~

34 *(3) Five percent to the State Department of Health Services to*
35 *assist individuals to access and utilize smoking cessation*
36 *services.*

37 ~~(5) To~~

38 *(4) Five percent to develop and implement public education,*
39 *media advertising, and outreach programs aimed at preventing*
40 *individuals from starting to smoke.*

~~(6) To~~

(5) *Five percent to develop and implement effective community interventions aimed at reducing the harm caused by cigarettes.*

~~(7) To~~

(6) *Two percent to reimburse the State Board of Equalization for its the costs of ~~administration and collection~~ administering and collecting of the fee imposed pursuant to this division.*

~~(8) To provide for the costs of administering this division.~~

(7) *Two and one-half percent to the State Department of Health Services for administering this division.*

(8) *Two and one-half percent to the Department of Conservation for administering this division.*